

**Town of Smithville
Planning Board Minutes
December 4, 2019**

Planning Board Members: Shane Butler; Robert Brooks, Adam Whitbeck, Pamela Holcomb and Julie Hatfield

Others in Attendance: Chris Boyea – Bohler Engineering, Alison Owens - Town Clerk, Angelo Cioffi, John Cammarata and Mike Evans – Town Board members, Lori Eaton, and Lynn Brooks.

7:00 Shane Butler called the meeting to order
Review and Approval of Minutes: Amendments to November 6 minutes: Adam Whitbeck made a motion to approve the minutes, seconded by Pam Holcomb. Members voted all ayes, motion carried.

7:02 Public Hearing: Dollar General Site Plan
Town Clerk Alison Owens read the public notice for the public hearing. Shane Butler declared the public hearing open and asked anyone wishing to speak to come forward, state their name and address, and state their case. Shane Butler asked a second time for anyone wishing to speak to come forward, state their name and address, and state their case. Hearing none, Pam Holcomb made a motion to close the public hearing, seconded by Julie Hatfield. Members voted all ayes, motion carried.

Bob Brooks made a motion to approve the Dollar General Site Plan with the restriction to not sell alcohol on premises. This is based on page 154 of the NYS Town Law Manual, Chapter 7, Article III which states “In order to ameliorate (to make better, improve) potential unwanted effects, the planning board, town board, or other administrative body tasked with site plan review may impose reasonable conditions and restrictions directly related to and incidental to a site plan.(...)” He stated this site plan would be a greater asset to the community if selling beer was restricted.

Shane Butler called the NYS Liquor Authority and talked to the legal office. It is their opinion that the Town Planning Board does not have the authority to restrict these types of sales. He also called the NYS Department of State and their impression was the same.

Chris Boyea suggested amending the motion to avoid future issues whether this restriction or condition be deemed legal or not. He suggested having the Town Attorney give his opinion on whether or not this would be legal. If this is deemed to be legal, the wording should remain. If it is deemed illegal to restrict this, it should state that the Town of Smithville Planning Board approves the Site Plan as submitted. John Cammarata doesn't think we can restrict what they sell inside the store but agreed the Town Attorney should review.

For the record, Bob Brooks read the letter from Howard and Joan Barker who are opposed to the Dollar General site plan due to the historic nature of adjacent properties.

Based on further discussion, Bob Brooks amended the motion, that, should it be deemed legal, we approve the Site Plan with the condition and/or restriction for the applicant to not sell beer on premises. If the condition and/ or restriction is not deemed legal, the Town of Smithville Planning Board approves the application as submitted, seconded by Adam Whitbeck. Members voted all ayes, motion carried.

Pam Holcomb made a motion to instruct Sup. Fred Heisler, or impending Sup. John Cammarata to contact the NYS Association of Towns for their opinion on whether or not the Town of Smithville Planning Board can restrict beer sales for a site plan, seconded by Julie Hatfield. Members voted all ayes, motion carried.

- 7:35 Old business: Shane Butler stated the Town Board would like us to review the Junk Storage Law. He asked members to look it over and bring back thoughts at the January 8th meeting. Discussion ensued on who would have the authority to enforce this law.
- 7:44 Pam Holcomb made a motion to adjourn until next month, Julie Hatfield seconded. Members voted all ayes, motion carried.

Respectfully submitted,

Shane Butler, Planning Board Chair
Alison Owens, Town Clerk

Next Planning Board Meeting is January 8, 2020